

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-0267
SHAKEEN DAVIS,)
Defendant.)
_____)

Friday, October 11, 2019
Courtroom 7D
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE

SENTENCING

For the Plaintiff:

Christina Hoffman, Esquire
Lauren Perry, Esquire
Assistant United States Attorneys

For the Defendant:

Paul Hazlehurst, Esquire

Also Present:

Special Agent Christian Aanonsen, ATF
Manisha Garner, U.S. Probation Officer

Reported by:

Douglas J. Zweizig, RDR, CRR, FCRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

P R O C E E D I N G S

(2:23 p.m.)

THE COURT: Good afternoon, everyone. You can be seated, please.

Do you want to call the case.

MS. HOFFMAN: This is United States versus Shakeen Davis, Case Number CCB-16-0267.

I'm Christina Hoffman on behalf of the United States.

With me here at counsel table is AUSA Lauren Perry and Special Agent Christian Aanonsen of the ATF. And we're here for Mr. Davis's sentencing.

THE COURT: All right. Thank you.

Good afternoon.

MR. HAZLEHURST: Good afternoon, Your Honor. Paul Hazlehurst on behalf of Mr. Davis, who is standing to my right at the trial table.

THE COURT: Okay. All right. Thank you. You can be seated.

MR. HAZLEHURST: Thank you, Your Honor.

THE COURT: All right. Well, obviously we are here for sentencing for Mr. Davis, although we have a motion for new trial to deal with first.

But there was a jury verdict returned against him on a number of counts.

The consolidated motion for judgment of acquittal or

1 new trial is one I am aware of. It's Document 1202.

2 And is there anything you'd like to add to that,
3 Mr. Hazlehurst?

4 **MR. HAZLEHURST:** Your Honor, I believe, quite frankly,
5 the sentencing letter I submitted to the Court incorporates
6 many of the sufficiency-of-the-evidence arguments that I would
7 be making.

8 But otherwise, I should submit on that record.

9 And obviously it's a -- we did make a motion for
10 judgment of acquittal at the close of the Government's evidence
11 and at the end of the trial. And, again, I think I can submit
12 on the record at this point.

13 **THE COURT:** All right. Thank you.

14 Is there anything the Government wants to say?

15 **MS. HOFFMAN:** No. I think we'll rest on our papers.
16 I think there's obviously been a general argument about
17 sufficiency of the evidence, but no specific bases put forward
18 for overturning the jury's verdict.

19 And, of course, Your Honor sat through six weeks of
20 trial. We believe that the verdict should stand.

21 **THE COURT:** Okay. All right. Well, yes, I'm aware
22 there are various issues, and that may relate to some of the
23 guidelines issues in terms of what the evidence actually
24 showed.

25 But I have no doubt that there was more than

1 sufficient evidence to support the jury's verdict beyond a
2 reasonable doubt, based on my observation of the evidence and
3 all the witnesses.

4 So I would deny the motion for new trial, motion for
5 judgment of acquittal.

6 As I say, on sentencing, let me tell you, I have, of
7 course, the presentence report. I have the Government's
8 sentencing memorandum. I have the defense sentencing
9 memorandum and a number of letters, including some received
10 today. So I have reviewed all of those.

11 I thought we might sort of start with these -- well,
12 I'll start by saying, aside from the guidelines issues, are
13 there any issues/concerns/objections to the presentence report
14 from the Government?

15 **MS. HOFFMAN:** No, I don't think so.

16 **THE COURT:** Okay. And, Mr. Hazlehurst, obviously, for
17 the record, you've read it.

18 Has your client had the chance to review the
19 presentence report with you?

20 **MR. HAZLEHURST:** Yes, Your Honor.

21 **THE COURT:** Okay. And other than the guidelines
22 issues and the fact that you naturally do not agree with the
23 statement of facts, are there any specific issues?

24 **MR. HAZLEHURST:** No, Your Honor. I believe they are
25 set forth in the letter that was submitted to the probation

1 officer, but also obviously in the sentencing letter that was
2 submitted to the Court.

3 **THE COURT:** Okay.

4 **MR. HAZLEHURST:** Thank you.

5 **THE COURT:** All right. Well, let's see. Again, the
6 convictions that we are discussing, for the record, we have
7 Count 1, being a RICO conspiracy; Count 2, narcotics
8 conspiracy; Count 16, which is unlawful possession of a
9 firearm; and Count 30, also unlawful possession of a firearm;
10 Count 31, possession with intent to distribute crack cocaine;
11 and Count 32, which is a 924(c) possession of a gun in
12 furtherance of a drug-trafficking crime. That was Count 32.

13 So in calculating the guidelines, I think everyone
14 agreed, essentially, that Counts 1 -- the first five counts of
15 conviction do group.

16 The first dispute is the assignment of an
17 Offense Level 43. And I'm looking at Paragraph 42 of the
18 presentence report. That's assigning Level 43 by a
19 cross-reference, essentially, holding Mr. Davis responsible for
20 the murder of Ricardo Johnson.

21 And I think that I'll just say preliminarily -- and
22 counsel can argue further, if you like -- but I certainly
23 believe that that murder was foreseeable to Mr. Davis.

24 I'm not clear that there is sufficient evidence for me
25 to assign that Level 43 for a first-degree murder on

1 Mr. Davis's part.

2 But if the Government wants to persuade me I'm wrong.

3 **MS. HOFFMAN:** Well, Your Honor, we do believe that,
4 based on the way the RICO conspiracy statute is set up and the
5 case law interpreting it, that we do apply a Guideline 43
6 because the jury found that murder was reasonably foreseeable.
7 And I believe they found that that Ricardo Johnson murder was
8 reasonably foreseeable.

9 I did try doing some research on this point. I did
10 not find any Fourth Circuit cases that directly address this
11 issue of whether a murder guideline of 43 applies if the jury
12 found that murder was reasonably foreseeable but the Government
13 did not prove beyond a reasonable doubt that the defendant was
14 guilty as a principal for a specific murder.

15 There are two recent RICO conspiracy cases in this
16 district that may serve as useful comparison points.

17 The first one is United States versus Timothy Hurtt,
18 and this was in front of Judge Bredar. It was JKB-14-0479.

19 And in that case, the jury found that murder was
20 reasonably foreseeable to the defendant in furtherance of the
21 charged racketeering conspiracy, even though, like here, the
22 Government did not present evidence that Timothy Hurtt
23 participated in any actual completed murder.

24 In fact, in that case, there was no evidence that
25 Timothy Hurtt participated in any attempted murder or

1 successful murder plot.

2 And at sentencing, in response to defense counsel's
3 argument that, quote, "There was no evidence that Hurtt was
4 connected with any of the other murders that happened,"
5 Judge Bredar ruled, quote, "No such finding is a necessary
6 predicate to sentencing your client. He faces the range that
7 he faces; i.e., life, under the statute by virtue of the
8 conduct on which he was clearly convicted, which may fall short
9 of concrete proof of his participation in a concrete murder
10 plot."

11 So Judge Bredar did address it in his ruling. He did
12 apply a guideline of 43 there on basically the same facts.

13 Now, I should point out that he did not sentence
14 Timothy Hurtt to life.

15 In Hurtt's case, though, there were a number of
16 mitigating circumstances that are not present here that led the
17 Government to recommend a sentence of between 25 and 30 years.
18 And in line with that recommendation, Judge Bredar sentenced
19 the defendant to 27 years.

20 As I mentioned, the defendant -- there was no proof
21 that the defendant participated in any murder, but also no
22 attempted murders, shootings, really no violence at all. He
23 was just part of this bigger BGF conspiracy that did these
24 things.

25 On the other hand -- this is not quite as on point --

1 but in another recent RICO conspiracy case in front of
2 Judge Bredar, United States versus Marquise McCants, this is
3 Case Number JKB-16-0363, the jury checked the box next to
4 "attempted murder" but did not check the box next to "murder,"
5 and Judge Bredar did sentence that defendant to life.

6 However, at sentencing, Judge Bredar found that he
7 was, by a preponderance of the evidence, guilty of an
8 additional uncharged murder.

9 So neither case is quite squarely on point.

10 But we do think that Judge Bredar's ruling in
11 United States versus Timothy Hurtt is persuasive in that the
12 guideline of 43 should apply in the situation where the jury
13 checks "murder" because it found that murder was reasonably
14 foreseeable and that that's the way that the statute is
15 basically set up.

16 **THE COURT:** Okay.

17 Mr. Hazlehurst.

18 **MR. HAZLEHURST:** Your Honor, I am not familiar with
19 either the case of Mr. Hurtt or Mr. McCants.

20 I do know that in prior RICO conspiracy cases where
21 murder has been an issue as to foreseeability, at least in
22 regard to the jury's indication as to what it found, there has
23 always been a check box, as it were, that said either
24 "premeditation" or "first-degree murder," gave the option for
25 second degree. And so there was a gradation of the potential

1 states of homicide.

2 I would cite to Your Honor, there is JKB-14-0479,
3 which is U.S. versus Mark Bazemore, B-A-Z-E-M-O-R-E. In that
4 case the jury actually did mark the box "first-degree murder"
5 in terms of "foreseeable racketeering activity." Did not mark
6 the box as to second-degree murder.

7 In United States versus Gerald Johnson, I believe
8 JKB-16 -- appears to be 01 -- 363, Your Honor, the same thing,
9 there are the potential for the jury to find the fact there was
10 first-degree murder, second-degree murder.

11 And, Your Honor, I believe in a case before this
12 court, in the Barronette trial, there was also the ability for
13 the jury to indicate that there was evidence of foreseeability
14 of first-degree murder, second-degree murder. And, again,
15 there is no such possibility in this case.

16 And it's almost -- in essence, Your Honor, I'd say
17 it's almost a Rule of Lenity argument because, essentially,
18 without that specific finding, it cannot be that it should be
19 43.

20 And, Your Honor, again, I also believe that just as a
21 general evidentiary argument that there was not evidence
22 that -- again, Mr. -- I don't believe there was evidence that
23 Mr. Davis participated.

24 And also as to the foreseeability of the homicide, the
25 only homicide I believe there was any evidence alluding to him

1 with regard to -- was the Ricardo Johnson homicide. And,
2 again, I just don't believe that standard has been carried even
3 by a preponderance.

4 **THE COURT:** Okay. All right. Well, of course, it's
5 interesting to hear what Judge Bredar has done in other cases.
6 I don't know that I can give it a great deal of weight without
7 having a chance to look into the circumstances more carefully
8 myself and see what he may have relied on. And apparently
9 there is not case law at this point that would answer the
10 question.

11 I tend to -- whether it's Rule of Lenity or just a
12 matter of proof, but I think, unless there is something that
13 clearly shows the appropriateness of assigning an
14 Offense Level 43 when the most that the jury has done is say
15 that a murder was reasonably foreseeable, and the only one that
16 I am aware of in terms of an actual murder that Mr. Davis was
17 sufficiently connected to or was connected to by the evidence,
18 it is the Ricardo Johnson one.

19 And I can't find, based on the evidence -- and I don't
20 think I can interpret the jury's verdict as finding -- that he
21 participated in a first-degree murder as to Mr. Johnson such as
22 to make that Offense Level 43 appropriate.

23 So I think -- on the other hand, there are two groups,
24 Groups 2 and 3, that relate to the attempted murder of D.J. and
25 D.G.

1 It would appear to me on those groups that there --
2 again, I'll listen to what you say, but tentatively, that is --
3 this relates to the incident on May 30th of 2015 when,
4 according to certain testimony, Mr. Davis shot out of the car
5 at these individuals.

6 They were, in fact, severely -- seriously, at least,
7 injured, although fortunately not killed.

8 It would seem to me that the offense level of 33, as
9 noted in Paragraph 48 of the presentence report, would apply.

10 If I am interpreting this correctly, the Government is
11 not asking for an obstruction of justice enhancement but is
12 asking for an additional two levels for serious bodily injury;
13 is that right?

14 **MS. HOFFMAN:** That is right, Your Honor.

15 And that is a little different from what we had put in
16 our initial memo to Probation, so I apologize for the change.

17 But, yes, we are not asking for an obstruction
18 enhancement based on the razor blade incident.

19 I will want to touch upon that later, but we are
20 asking for an additional two levels. I think just under the
21 plain language of the guideline, there's a two-level upward
22 adjustment because the victim sustained serious bodily injury,
23 which the application note says "includes injury requiring
24 medical intervention, such as hospitalization."

25 And here the victims, although luckily they suffered

1 graze wounds and cuts to their hands and arms, they did require
2 medical intervention at the hospital. And we, in fact, put in
3 photos of their injuries during the trial.

4 **THE COURT:** Okay. Mr. Hazlehurst.

5 **MR. HAZLEHURST:** Your Honor, I'm not going to offer
6 any argument in that regard. Again, obviously, I think that
7 Mr. Davis does submit that there was insufficient evidence to
8 show that he was responsible for that shooting. Obviously,
9 it's an argument we've made before and we made in our papers
10 today, Your Honor.

11 As to bodily injury, I don't think there's any
12 reasonable argument to make that the two people who were in the
13 car suffered bodily injury. So we'll submit on that.

14 **THE COURT:** Okay. Recognizing that you disagree, your
15 client does, as a matter of the evidence, I think on this
16 instance, there was sufficient evidence, as I've said, to
17 support finding that Mr. Davis did attempt to kill these two
18 individuals, which would be the Offense Level 33. And then, in
19 fact, serious bodily injury requiring medical intervention,
20 hospitalization did result.

21 So Groups 2 and 3, it seems to me, would remain in
22 place as Offense Level 35 in total, but not for obstruction.
23 That will be taken out.

24 On Group 4, relating to the drug conspiracy, again, I
25 think counsel are in agreement, based on the jury's verdict,

1 that the offense level would start at a 30 for the quantity of
2 drugs.

3 It seems to me that there would likely be an increase
4 of two because of the conspiracy involving firearms and another
5 increase of two because Mr. Davis individually either used
6 violence or directed the use of violence, but that would be a
7 total of 34.

8 In that regard, again, we are not putting in
9 obstruction of justice.

10 I understand the Government wants to make an argument
11 about injury resulting from the drugs.

12 But let me just start with where we are, from the
13 Government's point of view, with the offense level of 30 and
14 then the two increases related to gun and violence.

15 **MS. HOFFMAN:** We agree that that is correctly
16 calculated and the base offense level should be 30. I think
17 the converted drug weight was incorrectly calculated in the
18 PSR.

19 **THE COURT:** Okay. Do you want to comment on that
20 aspect of the guidelines, Mr. Hazlehurst?

21 **MR. HAZLEHURST:** Your Honor, as to the -- certainly we
22 agree that -- as to the 30.

23 I will submit as to the additional -- the firearms and
24 the use of violence -- and, obviously, if it comes up again, we
25 do object to the obstruction of justice enhancement. We are

1 not there now.

2 **THE COURT:** Sure. Sure. Okay.

3 All right. Do you want to be heard on this 5K2.2,
4 Ms. Hoffman?

5 **MS. HOFFMAN:** Yes. We are requesting an additional
6 two-level upward adjustment under 5K2.2, and that's based on
7 the evidence of an overdose.

8 Guideline 5K2.2 is applied if significant physical
9 injury resulted from the offense.

10 And as discussed in our sentencing memo, there was a
11 cell phone that was seized from Mr. Davis on April 26th of
12 2016, and it contained pages and pages of text messages with
13 drug customers over a long period of time.

14 But there was one particular drug customer who they
15 had repeated -- he had repeated transactions with.

16 And on a particular day -- and I have just lost my
17 place -- but this particular drug customer texted Mr. Davis to
18 say that he had wound up in the hospital. And I just found it.
19 On April --

20 **THE COURT:** Where is it? Okay. I'm looking -- I'm at
21 Page 19 of your memo.

22 **MS. HOFFMAN:** So Page 19 deals with the guideline and
23 then Page 10 has the relevant facts.

24 **THE COURT:** Okay.

25 **MS. HOFFMAN:** So on Page 10, Mr. Davis had texted the

1 customer on April 4th of 2016 that he had "fire," which is a
2 commonly used term for "very potent drugs."

3 And the customer had replied "okay," and then they had
4 made plans to meet for this customer to purchase drugs on
5 April 6th of 2016.

6 Then three days later, Mr. Davis gets a text message
7 from this drug customer, who's clearly just purchased drugs,
8 recently purchased drugs from Davis, and the customer says,
9 "Made it through detox. Ended up in the hospital, but I'm
10 better now. I'll send people your way if they are looking."

11 And this was in Government's Exhibit CELL-2A, which
12 was introduced at trial.

13 And I do have it here, although I was informed that
14 the document camera is not working.

15 But if Your Honor would like to see the actual
16 text messages, I can pass those up.

17 **THE COURT:** Sure. I assume they're accurately quoted
18 in your memo, but I'm happy to look at them.

19 (Counsel conferred.)

20 **MS. HOFFMAN:** (Hanging.)

21 **THE COURT:** Okay.

22 **MS. HOFFMAN:** The text messages leading up to the
23 transaction are on Page 9.

24 And then Page 11 is the text message that says, "Made
25 it through detox. Ended up in the hospital, but I'm better

1 now," and they're with the same phone number, which is how we
2 know that it's the same drug customer.

3 **THE COURT:** Okay. Thank you.

4 So you've got sender phone number ending in 6230 and
5 then -- all right.

6 So the messages on Page 9 -- correct me if I'm
7 wrong -- from that phone number back and forth, "We've got you
8 around."

9 Answer, "Yeah."

10 "20 minutes out."

11 Answer, "Okay."

12 Phone number, "I'm here."

13 Phone number, "I'll take a dub of green, if you have
14 it."

15 And those are on April 6th? Is that what you're
16 talking about?

17 **MS. HOFFMAN:** That exchange is on April 6th.

18 Two days before that, on April 4th, with that same
19 phone number, Davis texts that customer and says that he has
20 fire, and the customer replies, "Okay."

21 "Fire" is usually a term used for very potent heroin.

22 And I apologize that this is more complicated than it
23 would be with the document camera, but there are earlier text
24 exchanges with this customer in which they talk about "boy," so
25 this is a customer who, based on the text messages, routinely

1 purchased both heroin and marijuana from Mr. Davis.

2 I believe "green" is a reference to marijuana and
3 "boy" is a reference to heroin. And "fire" I believe is a
4 reference to heroin.

5 **THE COURT:** Okay. Mr. Hazlehurst.

6 **MR. HAZLEHURST:** Thank you, Your Honor.

7 Your Honor, understanding two things: One, we are in
8 a sentencing hearing where hearsay is admissible.

9 Two, that we are operating under a
10 preponderance-of-the-evidence standard, I still believe that
11 the evidence that has been put forth by the Government is
12 insufficient to warrant a departure in this case for serious
13 bodily injury, and I do that on two grounds, Your Honor.

14 One, there is ultimately no indicia of reliability
15 that comes with a blank statement contained in the text message
16 when we don't have the ability to see or hear from this
17 particular person.

18 I would venture that the Government has the
19 opportunity -- it's had the opportunity to subpoena this person
20 into court to make them subject to examination and also
21 cross-examination.

22 So, one, I think we lack a proper and solid foundation
23 for the Court to make the finding the Government's asking for.

24 But the second thing, Your Honor, is causation,
25 because, quite frankly, Your Honor, I would say -- I was going

1 to say that drug users, at least in my experience, having
2 represented people who use drugs in my life, in my career, are
3 not monogamous. In fact, they are at the other end of the
4 spectrum. They are often promiscuous in terms of buying drugs
5 from different sources.

6 And the text message does not attribute -- if we even
7 believe that this person ended up in rehab or ended up
8 basically having to go through detox and overdosed -- that the
9 drugs they're talking about are attributable to Mr. Davis.

10 And the only way we can ultimately find out would be
11 if they were in court and testified to that, but we don't have
12 that.

13 So, again, on those two grounds, Your Honor, I would
14 suggest to the Court there is insufficient evidence to make
15 that finding.

16 **THE COURT:** Well, I agree with Mr. Hazlehurst. I
17 don't think I can make that departure finding based on these
18 text messages.

19 I haven't obviously seen the person, and that's not
20 always necessary. But we don't have that here.

21 I don't have anything to evaluate, as he said,
22 causation in the sense of being sufficiently sure that whatever
23 put this individual into detox, somewhere between possibly
24 between the 6th and 9th, is Mr. Davis's drugs.

25 And, frankly, I can't really tell from this, unless

1 one assumes that any hospitalization is the equivalent of
2 significant physical injury. And the guideline tells me to
3 evaluate the extent of the injury, whether it's permanent --
4 whether it was intended or knowingly risked we might have some
5 evidence about. But the extent of the injury and the
6 permanence I certainly have no information about.

7 So I would not think it is appropriate to depart
8 upward based on 5K2.2, physical injury.

9 Thank you.

10 Okay. Let's see. Do we have other -- before we get
11 to criminal history, do we have other guideline issues?

12 I think what I am finding so far is on RICO, what's
13 now identified as Group 2 and Group 3 would both be a total
14 offense level of 35 based, as I said, on the attempted murder
15 and on the serious or significant bodily injury.

16 And then in Group 4, I believe I'm at a 34 with the 30
17 plus two, plus two.

18 Are there any other guideline offense-level related
19 disputes?

20 **MS. HOFFMAN:** No, I don't think so.

21 **MR. HAZLEHURST:** None on behalf of Mr. Davis,
22 Your Honor. Thank you.

23 **THE COURT:** Okay. All right. In terms of the
24 criminal history, so a little bit of back-and-forth here.

25 I think there is -- well, there's a point that is

1 assessed for the juvenile finding in Paragraph 74, appears to
2 have involved robbery, assault, and a handgun.

3 And there is a point assessed -- this is in the
4 current PSR -- Paragraph 78, the possession of paraphernalia,
5 marijuana.

6 There has been some disagreement about what's in
7 Paragraph 76, which is the gun, gun-related conviction. I'm
8 sorry, 77. Handgun on person from September of 2012.

9 The Government has indicated -- and it seems to me
10 correctly -- that the way these RICO guidelines work -- and I
11 think you were relying on 2E1.1, Application Note 4 -- that in
12 the RICO context, certain previous conduct, even if it might,
13 on its face, seem related, is still counted under certain
14 circumstances, which would apply here, conviction prior to the
15 last overt act and of the instant offense.

16 And if the Government is correct about that, I guess I
17 would sort -- I can check in with the probation officer, but I
18 think there would at least be a point for the handgun
19 conviction and an additional two for his being on probation,
20 which would mean that he would have a total of five points and
21 be a Criminal History Category III rather than a II.

22 So, Mr. Hazlehurst, do you want to be heard on that?

23 **MR. HAZLEHURST:** Your Honor, I hate to give up a
24 victory, at least a temporary victory with Ms. Garner. I
25 credit her for her hard work on that. And taking into account

1 my argument, I do think the Court may be correct.

2 I would note, Your Honor, that Mr. Davis, again, does
3 not acknowledge that conviction, does not believe he had that
4 conviction. Obviously, he didn't stipulate to that conviction.

5 So in making this argument, I make this, I guess, in a
6 legal hypothetical way, but, again, I understand the
7 Government's argument.

8 I don't believe that further argument from me is
9 necessary. I think I stated our position in regard to the
10 letter and also the letter to the Court and the letter to
11 Ms. Garner.

12 **THE COURT:** Okay. On that point, perhaps, then, we
13 should supplement the record. I'm assuming that the
14 Probation Office and/or the Government has some record of this
15 conviction in Paragraph 77. And we could supplement the record
16 with that.

17 **MS. HOFFMAN:** I do have the actual true test for that
18 conviction, and it was actually entered as Exhibit CR-2 at
19 trial.

20 **THE COURT:** Oh, okay.

21 (Counsel conferred.)

22 **THE COURT:** All right. If it's already in the record
23 as an exhibit, then I assume that's fine.

24 All right. If everyone can, again, help me out
25 here -- and correct me if I'm wrong -- but the way the grouping

1 then works on the offense level, I think with the 35 and the 35
2 and the 34 being the relevant offense levels, it may be that we
3 take the 35 and add three points and come up with a 38 under
4 the grouping rules.

5 I see the probation officer is nodding.

6 **THE PROBATION OFFICER:** Correct, Your Honor.

7 **MS. HOFFMAN:** And we believe that's correct as well.

8 **THE COURT:** All right. Then we have an offense level,
9 finally, after all of this, we have an offense level of 38 and
10 a criminal history category of III, which would give us a range
11 of 292 to 365 months.

12 Okay. And I'll ask the probation officer to revise
13 the presentence report later, in accordance with these
14 findings.

15 **THE PROBATION OFFICER:** Yes, Your Honor.

16 **THE COURT:** Okay. All right. Obviously, the advisory
17 guideline range is just one factor that I have to consider.

18 And I'm happy to hear whatever both sides would like
19 to say under 3553(a). Obviously, I'm aware of the positions
20 you've taken in your memos.

21 **MS. HOFFMAN:** And, Your Honor, before we get to that,
22 just one more point on the guidelines.

23 **THE COURT:** Oh, okay.

24 **MS. HOFFMAN:** Count-- we agree with that guidelines
25 calculation as to Count 1, which groups with Count 2.

1 Count 32, though, is a 924(c), as Your Honor
2 mentioned, and so the guidelines provide that there is a
3 consecutive five years. So you actually end up adding 60
4 months on both -- to the low end and the high end of that
5 range.

6 **THE COURT:** Okay. Yes, I apologize for not mentioning
7 that.

8 There is, obviously, as you've indicated, a required
9 60 months consecutive on Count 32.

10 And you are saying, Ms. Hoffman, that the guideline
11 adds 60 months on both?

12 **MS. HOFFMAN:** Well, maybe that's not quite right,
13 actually. It's just a mandatory consecutive 60 months on
14 Count 32 that will run --

15 **THE COURT:** Yes. Okay. Absolutely.

16 All right. And if you would like to proceed with your
17 argument.

18 **MS. HOFFMAN:** Thank you, Your Honor.

19 I'm not going to spend much time going over the facts
20 of the case. Your Honor did sit through six weeks of trial.
21 And, as you mentioned, you've read the sentencing memos.

22 I'd like to focus on the 3553(a) factors and also
23 address some of the arguments in Mr. Hazlehurst's memo.

24 Your Honor, we do believe that the just sentence in
25 this case is a sentence of life imprisonment. We believe it's

1 what the guidelines call for.

2 Obviously, Your Honor has calculated them differently.
3 We do believe it's what the guidelines call for. We believe
4 it's what the jury's verdict called for.

5 But, more importantly, we believe it's what 3553(a)
6 calls for.

7 The defendant's offense conduct is about as serious as
8 it gets.

9 I want to talk first about the attempted murder of
10 D.J. and D.G.

11 Putting the guidelines aside, for purposes of 3553,
12 there really isn't any difference between the defendant's
13 conduct and murder.

14 In terms of the defendant's mental state, his intent,
15 and his conduct, the defendant is every bit as culpable as
16 someone who commits murder.

17 We know that he formed the intent to kill the victims
18 because they had allegedly pulled a gun on or tried to rob his
19 fellow gang member, Nutty B.

20 We know that he went to his car and got an assault
21 rifle.

22 We know that he fired at least nine rounds at the
23 victims as they sat in their car at a busy intersection in
24 broad daylight.

25 And we know that two of his bullets grazed D.J. in the

1 back.

2 So we think it was complete dumb luck that he did not
3 kill those two individuals. It was literally a matter of
4 inches.

5 I don't think there can be any doubt that he intended
6 to kill his victims. And his conduct was the type that can
7 ordinarily be expected to result in death.

8 And he also recklessly endangered the lives of the
9 other people sitting in their cars at that intersection. It
10 was a busy intersection.

11 And I think it must have been a very traumatic
12 experience for the people sitting in their cars to watch the
13 defendant hanging out the passenger side window of a car
14 unloading an assault rifle at the car ahead of them.

15 I also want to address some of the arguments made in
16 Mr. Hazlehurst's memo, that the defendant didn't really commit
17 the attempted murder. And I know Your Honor has already found
18 that he did commit these attempted murders.

19 But, nonetheless, to the extent it bears on 3553, I
20 wanted to address some of those arguments.

21 Mr. Hazlehurst says that Mr. Lashley couldn't --
22 Mr. Hazlehurst essentially argues that the witnesses can't be
23 believed. He says that Mr. Lashley couldn't possibly have seen
24 the shooting from his vantage point at the baseball field.

25 First of all, my recollection is that Mr. Lashley did

1 not say with any specificity where exactly he was standing.

2 When he was asked on direct, he said he was sitting across the
3 street from the BP and he said he was near the ball fields.

4 But he never said he was on the baseball field, he was
5 on first base, he was on second base. He didn't say that.

6 Furthermore, I think Mr. Hazlehurst is just wrong, as
7 a factual matter, about what you can see from that area. And
8 we played video of the Antoine Ellis murder from the gas
9 station showing that you could, in fact, see very clearly from
10 the gas station across the street to that field as the subjects
11 on that video were walking to the baseball fields.

12 So there's not heavy vegetation obstructing the view,
13 as Mr. Hazlehurst alleges.

14 And I think that's probably why Mr. Hazlehurst didn't
15 actually cross-examine Mr. Lashley on that point at trial. He
16 never asked him about his vantage point. He never said, "Isn't
17 it true that you can't see the intersection from where you were
18 standing?"

19 I think if he had asked him that, Mr. Lashley would
20 have said, "No, you very clearly can see from where I was
21 standing."

22 He also generally tries to poke holes in the witness's
23 credibility.

24 But I think it's very clear there are two different
25 witnesses who corroborate each other in very important ways.

1 They both tell the same story.

2 Mr. Lashley didn't know what Mr. Banks is going to
3 testify to. Mr. Banks didn't know what Mr. Lashley was going
4 to testify to. They corroborate one another.

5 But they're also corroborated by this jail call, which
6 is very important.

7 Mr. Banks says that he recalled the defendant changing
8 the color of his car, an Infiniti, shortly after the shooting.
9 And then, lo and behold, we have this jail call in which the
10 defendant tells Sydni Frazier that he had to repaint his car, a
11 G35 coupe, which is an Infiniti, because he, quote, "Did some
12 dumb shit out of there."

13 So that's highly corroborative. Obviously, Mr. Banks
14 couldn't have known that that jail call existed and couldn't
15 have made that up.

16 And then, finally, I think that Mr. Hazlehurst also
17 ignores or gives short shrift to the abundant evidence tying
18 this defendant to AR-15s, to assault rifles, around the time of
19 the shooting. He's caught riding around with one in his trunk.
20 His friends are on jail calls talking about how he's riding
21 around with a shoulder strap.

22 He's posting on social media about having a chopper.
23 He's texting a friend that he wants to get a logo of an AR-15
24 on his bag.

25 That's obviously not a coincidence. It corroborates

1 the witness's testimony and it also independently is evidence
2 of this defendant's proclivity or affinity for firearms and the
3 proclivity to use them.

4 I also want to talk about the Ricardo Johnson murder.
5 And I understand the Court's reluctance to find by a
6 preponderance of the evidence that the defendant was involved
7 in this murder as a principal.

8 But I think it is beyond a reasonable doubt that the
9 murder was reasonably foreseeable to him in furtherance of the
10 RICO conspiracy, and I think that that is very important for
11 3553(a) purposes. And I wanted to recap some of that evidence.

12 First, we have Mr. Lashley's testimony at trial. He
13 testified that a few days before the murder, he overheard a
14 conversation between the defendant, Mr. Davis, Melvin Lashley,
15 and Sydni Frazier.

16 And Sydni Frazier was talking about how he was
17 planning to kidnap and rob Ricardo Johnson, Uncle Rick, because
18 he believed Ricardo Johnson had a lot of drugs. He had a big
19 stash of drugs somewhere.

20 So Mr. Davis is there for that conversation. We think
21 that's reasonable foreseeability right there.

22 But then we have the text messages and calls between
23 Sydni Frazier and Shakeen Davis's 4194 phone number. There are
24 texts and calls in both of Frazier's cell phones that were
25 recovered on August 10th of 2016. So there are two different

1 cell phones, if Your Honor recalls, that were recovered from
2 the bag with the murder weapons in it.

3 And first we have on August 5th, Shakeen Davis texts
4 Frazier and he asked, "What happened?"

5 And Frazier responds, he says, "I'm on my way. Had to
6 take care of my family. Grab three black Jimmy Macks."

7 And we know that Jimmy Macks are guns. They're
8 talking about guns.

9 And Mr. Hazlehurst argued in his memo that, well,
10 Shakeen Davis doesn't directly respond to that message. And
11 that's true, he doesn't directly respond to that message, but
12 it ignores the fact that there are text messages going back and
13 forth between them over the course of many days.

14 So it's not as though Mr. Frazier is simply texting
15 Mr. Davis and it's falling on deaf ears. They are texting back
16 and forth over the course of many days. They have a pattern of
17 communicating. He's clearly getting these messages. He
18 doesn't say, "No, I'm not going to grab the guns."

19 And then on August 9th, Mr. Frazier and Mr. Davis
20 exchanged 12 phone calls throughout the course of that day.

21 And taking a step back, this is a murder that
22 obviously involved quite a bit of planning and quite a bit of
23 help. It wasn't Frazier acting alone.

24 They steal a car. The victim's found in a stolen car.

25 They abduct Ricardo Johnson outside his home at 2:30

1 in the morning. They tie him up. They blindfold him. And
2 he's a pretty big man, so that's takes multiple people.

3 Based on the cell site information for Sydni Frazier's
4 phone, they drive around with the victim for some period of
5 time, presumably trying to get him to tell them where his drug
6 stash is.

7 Then ultimately he's shot over 20 times, he's left in
8 that stolen van by the Light Rail, and they try to set the car
9 on fire.

10 So given what an elaborate plot this is and the fact
11 that we think Frazier was planning this out for some time and
12 clearly other people are involved, the fact that they're
13 exchanging 12 phone calls the day leading up to this murder we
14 think is significant.

15 There are also texts between Sydni Frazier and
16 Shakeen Davis the day before the murder too. And this was all
17 part of Government's Exhibit CELL-5A, which came in at trial.
18 It wasn't in the sentencing memo.

19 But on August 9th of 2016, the day before the murder,
20 Davis texts Frazier and he says, "You good?" Question mark.

21 And Frazier responds, "Hell, yeah, bro. I gotta holla
22 at you. O just left GGs and Q. What you doing, though?"

23 And a couple text messages down, Mr. Frazier texts
24 Mr. Davis and says, "All ready. We got to get the papers,
25 bro."

1 Now, I'll hand this up to Your Honor in a second.

2 But "papers" is usually a reference to money. So
3 Frazier is telling Mr. Davis, "We got to get the papers, bro,"
4 which we think is a reference to money.

5 And Davis replies with "FR," which is short for
6 "for real."

7 Frazier then texts -- or, I'm sorry, Davis then texts,
8 "Shit ain't lookin' too good."

9 And Frazier replies, "I know, bro. FRL" -- for
10 real -- "so wrong. Got to give like yesterday."

11 So it's vague. It's unclear exactly what they're
12 talking about.

13 But there is a reference to getting the papers, which
14 we think is getting the money, and this is also the day before
15 the murder.

16 Then, significantly, Mr. Frazier places a call to
17 Mr. Davis's 4194 number at 3:07 in the morning, which is
18 roughly half an hour after Ricardo Johnson was abducted.

19 And we do think that the timing of that call is
20 significant. And it's an outgoing call. It's Frazier calling
21 Davis. So this is the crucial period when Frazier has
22 Ricardo Johnson tied up in a van and he's calling Mr. Davis.

23 You know, I don't think he's casually calling
24 acquaintances at 3:07 in the morning to talk about something
25 else.

1 If he's calling Mr. Davis, I think presumably he's
2 calling Mr. Davis to talk about what's going on at that moment,
3 which is that he's just abducted a drug dealer, they're trying
4 to rob his stash, and ultimately they kill him.

5 After -- well, we also know, based on other evidence,
6 that this is the type of relationship that Mr. Frazier and
7 Mr. Davis have.

8 When Frazier once helped robbing a drug dealer, he
9 talks to Davis.

10 We know that because we played a jail call at trial --
11 this was Call J5 -- in which Mr. Frazier called Davis from
12 jail. This was in August of 2014, he calls Davis from jail and
13 he uses coded language to tell Davis about a drug stash spot
14 that he wants to rob when he gets out.

15 Then after the murder, in a cell phone that's seized
16 from Mr. Davis, there are rap lyrics in his phone in which he
17 brags about robbing drug dealers with Syd.

18 So he says, "Me and Syd kickin' doors. Trying to make
19 some shake. Laying N words on the floor. What's the code to
20 the safe?"

21 So we think all this adds up to clear evidence that
22 the Ricardo Johnson murder was reasonably foreseeable to Davis.

23 We think it adds up to more than that. We think it
24 points to his actual involvement. But it's clearly reasonably
25 foreseeable.

1 And that alone I think is really important under
2 3553(a).

3 Even if the Court doesn't think it matters under the
4 guidelines, it goes to Davis's mental state and his culpability
5 in participating in this gang.

6 He participated in this gang knowing that its members
7 would commit murder and knowing that they would commit this
8 specific murder, which was an incredibly heinous and brutal
9 murder.

10 There are, of course, a lot of other ways that we know
11 murder was foreseeable to Shakeen Davis.

12 We know it based on the gang's rules of conduct, the
13 rule that snitching is punishable by death.

14 We know it by the things he posted on his Instagram,
15 flaunting firearms, bragging that anyone who goes against the
16 mob gets murdered.

17 We know it from his text messages. In some of them
18 he's talking about hunting people down who he's in a beef with.

19 So we know it in a lot of different ways, that this
20 defendant participated in this gang knowing that its members
21 were committing murders, knowing that that was a part of the
22 conspiracy that he was involved in.

23 And, of course, he himself attempted to murder two
24 individuals in furtherance of the gang.

25 I also want to talk about the need to protect the

1 public.

2 This is a defendant who, I think, is not going to be
3 deterred. And so I do think it is extremely important that the
4 Court protect the public from him for as long as it can.

5 First, his behavior while he was a fugitive is very
6 significant.

7 So the case was indicted in September of 2016.
8 Mr. Davis fled the indictment. He fled prosecution. He knew
9 he was a fugitive. There are messages in his phone or notes in
10 his phone talking about how he's a fugitive from the feds.
11 He's on the run.

12 He knew he was a fugitive. And he didn't stop his
13 criminal activity. It didn't deter him. He knew he was facing
14 very serious charges. He continued to deal drugs. He
15 continued to carry weapons.

16 And, in fact, when he was arrested, finally, in
17 February of 2017, he had a loaded pistol in his waist. He was
18 in a crowded shopping mall with a loaded pistol in his waist
19 and distribution quantities of crack cocaine on his person.

20 And it wasn't elicited in testimony at trial because
21 there was an objection about prejudicing the jury, but the
22 marshals did -- the members of the marshal's task force who
23 arrested him did say that when they went -- they came up behind
24 him and when they went to arrest him, he immediately reached
25 for his gun, which I think is significant. I mean, it's

1 additional evidence that this defendant poses a real danger to
2 the public.

3 It's bad behavior as it is, but when you're a
4 fugitive, I think it's even worse and it shows that he's not
5 deterred.

6 It's also why the razor blade incident is so
7 important.

8 And I agree with Mr. Hazlehurst that a guideline
9 enhancement is not appropriate for obstruction of justice on
10 these facts.

11 Unfortunately, we did what we could to investigate the
12 incident, were not able to come up with jail calls in which it
13 was explicitly -- any kind of plot was explicitly discussed.

14 My belief is that it must have been discussed in
15 face-to-face meetings.

16 So we don't have the evidence of obstruction of
17 justice, and we're not asking for that.

18 But I think it is clear evidence that the defendant,
19 again, presents a clear and present danger.

20 Even after the full weight of the federal justice
21 system came down on him, even when he's facing the most serious
22 possible charges, he doesn't stop trying to hurt people.

23 He attempts to smuggle in razor blades in his shoes on
24 the final day of trial, and I just don't think that there is
25 any plausible reason why he would have done that unless he was

1 trying to hurt someone. I think any argument to the contrary
2 just isn't believable.

3 So we think, obviously, the offense conduct is
4 extremely serious. It's about as serious as it gets.

5 This was a very violent gang that over many years was
6 responsible for five murders that were proved up at trial;
7 multiple shootings; two attempted murders for which the
8 defendant himself was responsible; the trafficking of deadly
9 drugs over a period of many years.

10 It's a very serious offense. But it's also, we
11 think -- one of the factors that was perhaps of overriding
12 importance in this case is the need to protect the public under
13 3553(a), and we think that that really has to carry a lot of
14 weight in this case given that the defendant has demonstrated
15 that he just will not be deterred.

16 And so we ask the Court to protect the public from him
17 for as long as the law allows, and that is by imposing a life
18 sentence.

19 **THE COURT:** All right. Thank you, Ms. Hoffman.

20 Mr. Hazlehurst.

21 **MR. HAZLEHURST:** Thank you, Your Honor.

22 Your Honor, as the Court knows, we are asking the
23 Court to impose a sentence on all counts, other than Count 32,
24 of ten years and then a five-year consecutive sentence, as
25 mandated by statute, for a total sentence of 15 years.

1 Before I get to why we believe that is appropriate, I
2 would like to respond just briefly to some of the points the
3 Government has made.

4 And, Your Honor, I am not going to rehash the evidence
5 because it's very clear that we've staked out our particular
6 grounds in regard to what the evidence shows.

7 But there are some points that were made that I do
8 think are important.

9 One, Your Honor, in regard to Mr. Malcolm Lashley's
10 evidence, I was paying absolute attention when Ms. Perry was
11 examining Mr. Lashley.

12 And Ms. Perry asked Mr. Lashley, looking at the aerial
13 map that was on the screen, point to where you were when you
14 saw this, and he pointed and put his finger down right at
15 second base (indicating).

16 And I honestly think, quite frankly, that it startled
17 Ms. Perry a little bit. She didn't expect that answer. She
18 appeared to be a little startled. But that was what he
19 indicated.

20 And, Your Honor, quite frankly, as I think I stated
21 during closing argument on behalf of Mr. Davis, one of the
22 maxims that we all follow as trial attorneys is you never ask a
23 question when you've already gotten the answer that you want.

24 And, quite frankly, the answer that I think was
25 correct and true -- but it was also an answer I wanted -- was

1 that Mr. Lashley couldn't have seen what he saw -- said he saw.
2 And I think we demonstrated that during closing argument.

3 But that's why I didn't cross-examine on that point
4 because he already said this is where I was.

5 Now, I think that Ms. Hoffman makes several leaps in
6 regard to her argument in terms of assessing the evidence that
7 she believes was advanced by the Government in support of the
8 verdicts.

9 And one of the things that she says also is a matter
10 of pure argument, there's no difference between conduct that
11 entails shooting a car and murder.

12 And obviously, Your Honor, I would argue strenuously,
13 but I'm not going to do it again, that Mr. Davis was not
14 responsible for that shooting.

15 But there is a huge difference between that conduct
16 and murder, and that huge difference is that no one died.

17 And, again, what the Government is putting forth is
18 that this was a point-blank shooting with an automatic weapon.

19 Now, again, we know there's no forensic evidence that
20 links that weapon to Mr. Davis. There may have been other
21 weapons of a like nature that Mr. Davis may have been found in
22 possession of, but there's no forensic evidence there.

23 But, again, if, in fact, Mr. Davis had been of a mind
24 to kill either one or both of these people, if he, in fact, was
25 the person who did it, it was an easy thing to do, and that

1 didn't occur.

2 So there is a significant difference between what
3 occurred and murder.

4 Your Honor, it is very clear that Mr. Davis and
5 Mr. Frazier are friends, but I don't think the evidence that
6 was advanced in this case goes beyond that.

7 Specifically in regards to the Ricardo Johnson
8 homicide, Your Honor, it was a very distinct feeling in that
9 courtroom, with all the elders of MMP sitting in front -- quite
10 frankly, what we referred to as "the kiddie table" in the
11 trial -- that we had two people that were in many respects not
12 alike and not part of that group. They were much younger.
13 They clearly grew up in the same neighborhood. They were
14 friends.

15 To the extent that we're talking about proof of being
16 involved in a homicide, the mere fact that one person,
17 Mr. Frazier, sends text messages that are unanswered to another
18 person doesn't indicate that Mr. Davis was involved in that
19 homicide.

20 Foreseeability, the jury found that. But involvement
21 is a different story. And, quite frankly, Your Honor, that
22 doesn't cut it.

23 The telephone call, August 10th, 3:07 in the morning,
24 again, we have no idea what was in that telephone call. We
25 don't know whether it went to voicemail, whether it was ever

1 received. It went to a number associated with Mr. Davis. We
2 don't know if he even had that phone.

3 So, again, there is -- it's not enough there, but --
4 and that -- as I pointed out in my sentencing submission,
5 Your Honor, those things are obviously very troubling
6 allegations.

7 But in terms of making that leap and bridging that gap
8 between one and the other, it isn't there.

9 Your Honor, I think Ms. Hoffman also places great
10 emphasis on the fact that Mr. Davis was engaged in similar
11 conduct when he was a fugitive, per se, after the indictment
12 came out.

13 And, Your Honor, to the extent that someone becomes
14 aware that they are under a federal charge, if, in fact -- and
15 we made no bones about this. This was something that we talked
16 about in closing and we admitted, that Mr. Davis sells drugs.

17 Unfortunately, part of selling drugs in this day and
18 age involves sometimes the possession of weapons. It's not a
19 good thing. It's not a positive thing.

20 But, again, I don't think that that goes to doing
21 anything other than what a drug dealer does. It doesn't
22 indicate involvement with a gang. It just indicates that this
23 is someone who sells drugs.

24 And, Your Honor, as to the razor blade, again, I think
25 there's another leap of faith that's asked for from the Court.

1 We don't have any evidence on the record as to ultimately what
2 was found.

3 But assuming what was put forth in the Government's
4 sentencing memorandum is a proffer, and accepting that as a
5 proffer, we don't know when those razor blades -- they were
6 found in the shoes -- when they got there, who the shoes
7 belonged to, what -- how long they had been there. We just
8 don't know those things.

9 And presuming that someone with a three-quarter-inch
10 razor blade, the type that are found in a disposable razor,
11 were there for the purposes of inflicting harm on anybody is a
12 huge leap of faith.

13 And, again, Your Honor, as it is today, the security
14 in that courtroom ringed the defendants (indicating). Any
15 attempt -- if Mr. Davis had known something was in his shoes,
16 was attempting to go into his shoes, there was absolutely no
17 ability for him to do that, and I think he knew that, because
18 that marshal was always seated right behind him.

19 So, again, I don't think that that is -- we don't have
20 enough at this point on the record to say that is evidence that
21 he is a danger. That is an open question.

22 Your Honor, in its sentencing submission, the
23 Government labeled Mr. Davis as a hardened, recidivist
24 criminal.

25 And as I noted, Mr. Davis is now 25 years old. When

1 this conspiracy is alleged to have began, it was 2011, he was
2 17 years old.

3 When he was arrested, that was February 24th, I
4 believe, of 2017, he was 23.

5 I would submit to the Court there is no such thing --
6 but certainly not in this case -- as a 23-year-old hardened,
7 recidivist criminal.

8 His record, even taking it as a Criminal History
9 Category III, doesn't support that.

10 What we have is, again, someone who grew up in a
11 neighborhood -- and this is Forest Park Avenue and
12 Windsor Mill Road, that intersection that we all heard volumes
13 about during this trial -- who lived in that neighborhood. And
14 that neighborhood, quite frankly, was invaded. There is
15 absolutely no doubt about that. It was invaded.

16 Whether you consider it as a part of MMP or say,
17 listen, this is just a group of older people who, again, I
18 think I used the word "annexed" in my sentencing letter, to
19 make this part of their territory, you've got those people
20 sitting right on top of Mr. Davis.

21 And, again, the Government's theory has always been
22 that you were in that neighborhood and you engaged in any sort
23 of criminal conduct -- and certainly drug dealing is criminal
24 conduct -- you had to do it as either part of the gang or being
25 approved by the gang.

1 And we don't have any evidence, again, that Mr. Davis
2 was ever jumped in, there was an initiation ritual. We don't
3 have any evidence that people actually suffered sanctions
4 because of this if they were trying to commit criminal acts in
5 this particular neighborhood.

6 But, again, this is Mr. Davis's neighborhood. This is
7 where he grew up. This is Mr. Frazier's neighborhood. This is
8 where he grew up.

9 Now, the Government is seeking a life sentence in this
10 case. And the guidelines are not what I believe -- obviously
11 what the Government believed they would be as the Court
12 calculated them.

13 Just in regards to the proportionality within the
14 context of this case, what that does is it places Mr. Davis on
15 the same plane as Dante Bailey.

16 And I don't mean to tar Mr. Bailey unnecessarily, but
17 a huge amount of the evidence in this case went directly to
18 Mr. Bailey: A number of homicides, a number of attempted
19 homicides, one where Mr. Bailey himself pulled the trigger on
20 someone who was apparently an innocent victim, mistaken
21 identity.

22 And so we're talking about this 25-year-old man being
23 placed at the same level as Dante Bailey, and that just doesn't
24 make it -- it's not correct.

25 But it's also just talking about people like

1 Dontray Johnson. Dontray Johnson pleaded guilty in this case,
2 as the Court knows. The Court took the guilty plea.

3 He didn't cooperate. At least to my knowledge, he
4 didn't cooperate. Certainly didn't appear at trial.

5 But he pled guilty to an agreed-upon sentence of 30
6 years. This is a man who admitted himself shooting two
7 people -- and I think one of them we have on video, if not
8 both.

9 So, again, it just -- that places Mr. Davis in the
10 upper echelons of this group.

11 And, again, it just seems to be a disproportionate
12 sentence.

13 Seeking a life sentence for Mr. Davis, I believe, is a
14 gross miscalculation. It does ignore his youth. It does
15 ignore the circumstances of his upbringing. Ignores, again,
16 the fact that MMP, or whatever you want to call it, came in and
17 squatted on his neighborhood. And in many respects, whatever
18 he did, he was going to have to be a part of it, especially
19 given under the Government's theory.

20 But this also, Your Honor, I think it goes beyond
21 that. It's -- we saw tons of social media in this case. And I
22 remarked in the sentencing letter that a lot of what the Court
23 saw -- and I think during examination, at the very least, even
24 if you didn't believe, as I did, that it showed MMP activity,
25 it certainly showed an influence on Mr. Davis. And it was

1 inescapable to him.

2 Your Honor, I also would note, in regard to the
3 proportionality of the plea -- or the propriety of the request
4 of the Government in terms of sentencing, the Court knows,
5 because we had to place on the record at the beginning of the
6 case under Lafler and Frye, what offer had been made to
7 Mr. Davis.

8 And the Government -- and I will absolutely agree with
9 this, it was a January 31st e-mail, at my request, because I
10 was the third counsel in this case and I wanted to see was
11 there any ability to resolve this case.

12 And I asked Ms. Hoffman to provide me essentially
13 numbers, and she said this is not an offer, but we would be
14 looking at essentially a range of 18 to 22 or a (C) plea to 20
15 years.

16 And, quite honestly, Your Honor, it strikes me as
17 wrong somehow the idea that merely for putting the Government
18 to its evidence that we make that leap, because he didn't
19 change in terms -- the Government had the evidence that it had.
20 It hasn't changed. It knew what it thought Mr. Davis was, and
21 yet we go from that to a potential life sentence.

22 The last part, Your Honor, of this presentation -- and
23 I apologize for going on so long -- and I note that Mr. Davis
24 has family in the courtroom. His mother is present today. The
25 people who wrote those letters are here today (indicating).

1 I spent -- Mr. Davis probably doesn't want to remember
2 this, but I spent hours and hours and hours with him.

3 And, honestly, he is a young man of actual, I think,
4 substantial intelligence, substantial ability, substantial
5 potential.

6 He got maybe -- maybe someone in his situation has an
7 incredible ability to resist, to avoid the things he saw around
8 him, to evade that lifestyle. I think that that's probably a
9 superhuman effort given the level of power that that group
10 exerted on that neighborhood.

11 So he was inculcated in that and he rose into that.
12 Didn't have a father. His mother's working like crazy to try
13 and raise the family. He sees the need to be able to try and
14 support the family as best he can, to contribute to that
15 welfare of the family, and he's doing what he knows can help
16 with that.

17 To put him in jail for the rest of his life, again, I
18 think is a huge, huge waste of that potential.

19 The Court has the ability to impose a sentence, the
20 sentence that we've requested, that will keep him away from the
21 public for a substantial period of time. 15 years is an
22 extremely long sentence.

23 But it also gives the ability to get treatment for his
24 bipolar disorder. I thought it was a remarkable thing that
25 Mr. Davis, when being treated for it and given medication for

1 the bipolar disorder, didn't take it because of the cross-issue
2 with marijuana. He chose the marijuana.

3 That's unfortunate because I think it would have
4 helped him a great deal. And he still has the ability to get
5 treatment. He has the ability to get treatment for that drug
6 issue.

7 But he also has the ability to put that mind to use to
8 get an education, get training, to get a job.

9 And ultimately, the biggest thing, the prize for him
10 and the goal for him is to be back into the community at some
11 point to do for his daughter what his father never did for him.

12 And it's an argument and it's a statement that I've
13 made too many times in this courthouse, and I see it all the
14 time, and I wish it weren't so. If I could go and roll back
15 time in any of these cases, I would absolutely do it.

16 But this is a man who wants to be there for his
17 daughter.

18 So, Your Honor, I would ask the Court to impose the
19 sentence that Mr. Davis has requested.

20 Again, if he, in fact, poses a danger, that danger can
21 be accounted for.

22 But what certainly is not being accounted for in the
23 sentence that the Government is asking for is the tremendous
24 waste of this person and all that potential that he has to
25 bring.

1 Thank you, Your Honor.

2 **THE COURT:** Thank you, Mr. Hazlehurst.

3 And before I turn to your client, let me just ask, are
4 there any particular recommendations?

5 **MR. HAZLEHURST:** Your Honor, Mr. Davis is asking, in
6 particular, to be imprisoned, if possible, in Schuylkill, one
7 of the facilities there.

8 He is interested in trying to get either a commercial
9 driver's license or some electrical -- basically, an
10 electrician's training.

11 But I think, quite honestly, his desire is to do
12 whatever he can, in terms of wherever he goes, to get a trade
13 that will enable him to make a living once he is released,
14 hopefully, from prison.

15 **THE COURT:** Okay.

16 **MR. HAZLEHURST:** And, Your Honor, obviously drug
17 counseling and treatment. And, if possible, RDAP, because I do
18 think that that is a good program. And if he is given that
19 recommendation, hopefully he will be able to get into that
20 program.

21 **THE COURT:** Okay. Ms. Hoffman?

22 **MS. HOFFMAN:** There are a few points I just wanted to
23 respond to very briefly.

24 One is the argument that Mr. Davis was somehow an
25 unwilling participant in MMP, that, you know, if he was in the

1 gang, it was only because elders in the neighborhood took over
2 the neighborhood and he was roped into it by necessity because
3 he was dealing drugs there.

4 I think the evidence presented at trial shows that
5 that is absolutely not the case. I mean, we put on photo after
6 photo of Mr. Davis on his Instagram page, happily throwing up
7 M signs, bragging about "Murdaland Mafia, the world is ours."

8 Talking about mob meetings with mob bosses, jail calls
9 in which he greeted others with, "What's mobbing?"

10 I just don't think it's a fair characterization to say
11 that he was an unwilling participant. I think it was quite the
12 contrary.

13 The argument about sentencing disparities, I did want
14 to just address that very briefly.

15 Of course, Dante Bailey is worse than Shakeen Davis.
16 I think that that is indisputable. Mr. Bailey, as proved at
17 trial, was responsible for either himself committing or
18 ordering five murders.

19 However, I don't think that -- Dante Bailey can't
20 serve, you know, 13 life sentences. He can only serve one life
21 sentence, and so I don't think it's really a fair comparison.

22 I do think that Dante Bailey is worse than
23 Shakeen Davis, but I do also think that a life sentence is
24 warranted in this case based on the facts of the case and the
25 danger that the defendant poses.

1 Dontray Johnson, it is true, did plead guilty to 30
2 years. Obviously, there is a significant benefit that a
3 defendant receives by virtue of pleading guilty.

4 But there are also some special factors. As
5 Your Honor knows, Mr. Johnson is charged in a separate
6 witness-retaliation case. The Government plans to seek
7 additional time in that case.

8 And so I don't think that that's a completely fair
9 comparison point either.

10 And then I just would ask Your Honor to disregard the
11 information about plea negotiations. I don't think it's
12 appropriate to bring up plea negotiations in the course of
13 sentencing.

14 It deters the Government from engaging in any kind of
15 negotiations. I don't believe that the negotiations were
16 accurately reflected, and so I just would ask Your Honor to
17 disregard that.

18 **THE COURT:** Mr. Hazlehurst?

19 **MR. HAZLEHURST:** Your Honor, just in regard to that, I
20 do have the e-mail that states -- and so that is verbatim from
21 the e-mail.

22 And I don't do it -- it's certainly not admissible at
23 trial and it's not something -- but, again, I do think in terms
24 of where we are, vis-à-vis where we were before the trial, it
25 is important and relevant.

1 Your Honor, Mr. Davis has asked me specifically also
2 to just cover the fact that he has been in the
3 Chesapeake Detention Facility since February 24th of 2017, and
4 that is a -- is certainly not an easy place to be, because
5 among other things, in terms of just the normal conditions,
6 there is a lack of ability to get any sort of educational
7 opportunities. There's a lack of the ability to hold a job and
8 to receive any sort of pay.

9 Your Honor, the last thing I would say is, again, I
10 think that the Government has commented just on the photographs
11 of Mr. Davis and what he was doing in regard to the throwing up
12 M's.

13 To me, Your Honor, quite frankly, that is evidence of
14 the sway that that group had over the neighborhood and the
15 inculcation of that culture, which is something that, again, he
16 couldn't drive into another neighborhood. He can't --
17 couldn't relocate his family. That's where he lived.

18 **THE COURT:** Sure. And I did not understand you,
19 Mr. Hazlehurst, to be suggesting that he was forced into
20 association with the gang.

21 **MR. HAZLEHURST:** No, Your Honor. No, no, absolutely
22 not. It was simply -- again, I think it was a matter of
23 culture, but also just the fact that it really was -- there
24 was -- they held sort of, you know, sway over the neighborhood.

25 **THE COURT:** All right. Mr. Davis, if there is

1 anything you would like to say before I make a final decision
2 about the sentence, you have the right to do that. You don't
3 have to. I assume you're going to appeal in this case, and I
4 won't hold it against you if you don't have anything you want
5 to say.

6 But if you'd like to speak, you have the right to do
7 that.

8 **THE DEFENDANT:** Of course. Thank you for this
9 opportunity to speak.

10 And, Your Honor, I would like to start by introducing
11 myself in the proper manner.

12 So good afternoon, Chief Judge Catherine Blake. My
13 name is Shakeen Davis.

14 As of today, I'm 25 years of age, a proud father of
15 one beautiful 6-year-old daughter.

16 I'm a lifetime resident in Baltimore City in which --
17 where I received my high school diploma.

18 I'm the youngest child of Mrs. Davis, who has raised
19 me alone my entire life.

20 I was born and raised in the area of Forest Park and
21 Windsor Mill in which I resided for two decades.

22 And I just want to thank you for your time and
23 cooperation during the course of our eight-week trial. And I
24 see you're a very patient individual. So I promise to keep
25 this as brief as possible.

1 With that being said, let me begin.

2 The Government painted a picture of me at trial with a
3 numerous number of false allegations and assumptions. The
4 assumptions made against me would make any human being look
5 like an ungodly criminal or Public Enemy Number 1.

6 I state this because not one of the case agents,
7 U.S. State's Attorney's, prosecutors, detectives, or et cetera
8 personally know me or even held a conversation with me to make
9 any judgment of my character whatsoever.

10 The Government portrayed to you and the jurors that
11 I'm a menace to society, which would be wrong and highly
12 prejudiced.

13 Insufficient evidence, untruthful witness testimony,
14 contradicting statements that altered the theory of the
15 Government and so on had a major effect on the outcome of the
16 case against me. Absolutely no proof beyond a reasonable
17 doubt.

18 Not one storeowner, employee, or civilian citizen
19 testified during the course of this trial. Only individuals
20 who wanted some type of leniency towards their own sentence.

21 To be completely honest, I feel as though having a
22 jury trial in a conspiracy case makes it merely [sic]
23 impossible to receive a fair trial due to the lack of
24 knowledge -- their lack of knowledge of federal law.

25 Don't get me wrong, I fully understand that I'm far

1 from perfect. And me being human, I made bad decisions
2 throughout my life. But none of the decisions I made should
3 have me incarcerated for a decade or decades of my life.

4 Before I went to trial, my lawyer told me it was not
5 on me to prove my innocence, the reason why I didn't take the
6 stand in my own behalf. But it was on the burden of the
7 Government to prove my guilt in which, in my eyes, they have
8 failed to do on the counts held against me.

9 I don't mean to sound repetitive, but the time I'm
10 receiving today is from assumptions and opinions made by the
11 Government. Basically, what they think, thought, or believed,
12 not what they know or can prove, which is the utmost unfair,
13 not just to me, but my family and loved ones.

14 These past three years that I've been incarcerated, I
15 missed a large portion of my daughter's life that I can't make
16 up to her. I sincerely don't want her mother to have to raise
17 her alone.

18 That is why I need to get home to protect and provide
19 for her as a father should. She doesn't deserve to go through
20 what I had to go through as a child, which Mr. Hazlehurst has
21 stated already.

22 I really want to better myself as a person, but it
23 isn't any programs or trades where I'm currently housed at, so
24 it's been rather difficult to do so.

25 That's the reason why I wish to go to a facility that

1 can help me retain some type of trade or HVAC and/or
2 electrician.

3 And that's all, ma'am.

4 **THE COURT:** Okay. Thank you, Mr. Davis.

5 Anything else anybody needs to say at this point?

6 **MR. HAZLEHURST:** No, Your Honor. Thank you.

7 **THE COURT:** All right. Thank you.

8 I'm going to take a 15-minute recess and I'll come
9 back and give you the sentence.

10 (3:39 p.m.)

11 (Recess taken.)

12 (4:05 p.m.)

13 **THE COURT:** You can all be seated, please.

14 Conference at the bench.

15 (It is the policy of this court that every guilty plea and
16 sentencing proceeding include a bench conference concerning
17 whether the defendant is or is not cooperating.)

18 **THE COURT:** All right. Well, thank you, all, counsel
19 and the probation officer.

20 As I've said before, sentencing is very difficult.
21 There are a lot of things to consider. It brings very
22 obviously serious consequences, but it has to recognize very
23 serious behavior.

24 I'm going to explain my reasons and do my best to
25 address the arguments that you all have made.

1 We know what the guidelines are to begin with, from
2 the 292 to the 365 months, plus the additional 60 months on
3 Count 32.

4 That's just one factor. But I am taking that into
5 account. I do believe that's a correct calculation.

6 This is an extremely serious set of offenses by
7 Mr. Davis. There's just no question about that.

8 First of all, as far as Count 1, the RICO, which is
9 obviously related to Count 2, the drug conspiracy, whether
10 Mr. Davis was a completely voluntary, free-choice participant
11 in MMP; whether there were some aspects of that that he
12 couldn't avoid because it was in his neighborhood, frankly, I
13 think it's a little bit beside the point. I agree with the
14 jury's verdict in this case.

15 But the point that's more important to me is the
16 conduct that he was involved in very clearly, I believe, and
17 the jury found, that he involved himself in selling drugs -- to
18 some extent, that's not disputed -- and the possession of guns,
19 which always creates a risk of violence and in actual violence
20 in furtherance of the drug trafficking and the MMP organization
21 generally.

22 It's clear that, unfortunately, Mr. Davis was doing,
23 as has been said, essentially sort of what he knew how to do,
24 sell drugs and use weapons.

25 The quantity of drugs here, alone, would make this an

1 extremely serious case. The jury found -- I believe
2 correctly -- at least a kilo of heroin and 280 grams of crack
3 were foreseeable to Mr. Davis. And we all know that drugs kill
4 people and destroy people's families.

5 The second extremely important factor regarding the
6 seriousness of the offense is both the violence and the risk of
7 violence that Mr. Davis engaged in.

8 It's quite clear that he, at various times, carried or
9 possessed/used a number of loaded weapons, including an AR-15
10 assault rifle.

11 I believe it was April 26th of 2016 when he was found
12 in the car with the stolen Glock and also with the AR-15 and
13 with a mask.

14 As the Government indicated earlier, there were also a
15 number of references in the evidence to Mr. Davis's possession
16 of that sort of weapon.

17 We have -- again, I understand Mr. Davis disagrees --
18 but what I believe was proved, the attempted murder of the two
19 individuals.

20 Now, I will agree with Mr. Hazlehurst, there is a
21 difference between attempted murder and murder. We can never
22 know exactly what was in Mr. Davis's mind when he was shooting
23 at those folks.

24 But he did not kill anyone; and I think for good
25 reason, the law treats that differently from a proven

1 first-degree, premeditated murder that has actually taken
2 someone's life.

3 On the other hand, of course, it's extremely violent
4 and risky behavior. And whatever his intent, it easily could
5 have killed someone in the car or injured a bystander, so it's
6 certainly very serious.

7 I do think that there is a significance -- not
8 amounting, for various reasons, to obstruction of justice --
9 but there's certainly a significance for 3553(a) matters of his
10 being found to have essentially razor blades in his shoes on
11 April 29th of 2019, as he was preparing to be brought into the
12 courthouse.

13 I would certainly find that, at least by a
14 preponderance of the evidence, it would be extremely surprising
15 to me if he did not know that those blades were in the shoes
16 that he was wearing.

17 Precisely what the purpose was in court, in the
18 lockup, or at CDF, or as some sort of protection, I don't know.
19 But it is relevant that he was carrying that kind of contraband
20 in his shoes as late as April of 2019.

21 And that, I think, goes to the real need in this case
22 to deter Mr. Davis specifically.

23 Now, I do understand and agree with Mr. Hazlehurst's
24 point, he's still relatively young. I don't think it's at a
25 point where one can say that he would never change or he is a

1 completely hardened criminal.

2 On the other hand, I have to look at what is the
3 record in front of me so far.

4 And in 2011, he has a juvenile offense involving a
5 gun. And we know he had a gun in 2012 and at various points
6 during this case. I've mentioned the AR-15 in 2016 while he
7 was a fugitive in this case. He was arrested with a loaded,
8 stolen gun and drugs. Obviously hadn't been deterred. And
9 then had the razor blades in 2019.

10 So I hope he may be able to mature and learn some
11 better judgment, but the record so far is not encouraging.

12 Now, this is a tragedy for Mr. Davis's family. And I
13 do consider that obviously he had a hard time growing up. And
14 he grew up in a neighborhood where his choices were limited and
15 his family circumstances were not what he might have wanted.

16 And I'm sure he has done good things for his family
17 and his friends and that he cares about his family. I don't
18 doubt that at all. And I'm sure he has the intelligence to do
19 something better than what he has been doing.

20 But I need to balance all that against protecting the
21 public and recognizing the seriousness of this crime and
22 deterring Mr. Davis.

23 A couple of other points that I don't want to ignore.

24 Yes, he's been at Chesapeake Detention Facility for a
25 period of time. That, as I've said before -- because it's

1 brought up by virtually every defendant -- I understand, the
2 Court understands that there are problems at CDF, and we have
3 been trying to do what we can, on an institutional basis, to
4 address that.

5 But I don't think it's an appropriate factor to take
6 into account specifically in terms of a sentence or lowering a
7 sentence for that reason.

8 I will also say that I think it is important for a
9 court to consider relative culpability in sentences that have
10 been issued to other people and what their conduct represents.
11 It's a little hard to do here.

12 Mr. Bailey is in a different category.

13 Mr. Johnson is in a different category for a number of
14 reasons, and he did accept responsibility.

15 I'm not going to specifically address the question of
16 plea negotiations. I always believe that the Government -- as
17 well as, of course, the defense counsel -- should be
18 negotiating in good faith and should have good reasons for
19 whatever their recommendations are, whether it is before or
20 after trial.

21 I believe that a very significant sentence, consistent
22 with the guidelines, is warranted in this case.

23 I do not agree with the Government that a life
24 sentence would be appropriate or proportional to what has been
25 proved as to Mr. Davis and taking into account his individual

1 circumstances.

2 I think the sentence I'm about to announce is lengthy
3 and sufficient without being greater than necessary. And,
4 again, the guidelines are not controlling, but they are one
5 factor that I may consider. And this is a within-guideline
6 sentence.

7 And that sentence, Mr. Davis, on Count 1 is going to
8 be 25 years in the custody of the Bureau of Prisons. That is
9 300 months on Count 1.

10 The same sentence I believe is warranted on Count 2,
11 the drug conspiracy, 25 years, 300 months.

12 On the other two firearms charges, that's 16 and 30,
13 the maximum is 10 years. That will be a 10-year sentence.
14 This is all concurrent.

15 On Count Number 31, that is, again, a 25-year
16 sentence, concurrent.

17 And on Count 32, there will be the required
18 consecutive 60-month sentence.

19 There is a \$100 special assessment on each count that
20 I am imposing.

21 Mr. Davis's financial circumstances do not permit a
22 fine.

23 And, of course, I will recommend that he be designated
24 to the facility at Schuylkill and receive some vocational
25 training, as well as participate in any substance abuse

1 treatment program he might be eligible for.

2 That's going to be up to the Bureau of Prisons exactly
3 where he is designated.

4 And tell me what I have left out or the legal
5 objection to the sentence.

6 **MS. HOFFMAN:** Count 31, Your Honor, I believe the max
7 is 20 years on that count, based on the quantity of drugs.

8 **THE COURT:** I'm sorry, the max is how much?

9 **MS. HOFFMAN:** 20 years.

10 **THE COURT:** All right. I believe it was reflected
11 differently on the presentence report, but I did not --

12 **MS. HOFFMAN:** I think I failed to catch that in the
13 PSR.

14 It does say "life" in the PSR, but the quantity is --
15 it was just a detectable quantity.

16 **THE COURT:** You're correct. Thank you.

17 Then that's 20. 20 years on Count 31.

18 Anything else?

19 **MS. HOFFMAN:** Just one final note.

20 In light of the Supreme Court's recent decision in
21 Rehaif regarding what's necessary for the Government to prove
22 on 922(g) convictions, I think that the Government will be okay
23 on an appeal.

24 But in case there are any appellate issues, I would
25 ask that the Court find explicitly that the sentence that the

1 Court is imposing on Counts 1 and -- Counts 1, 2, and 32 would
2 be imposed independent of whether the Fourth Circuit determined
3 that the defendant was entitled to a new trial on the 922(g)
4 convictions.

5 **THE COURT:** I should also make it clear, if I have
6 miscalculated the guidelines, again, they are only one factor,
7 and that would not change my sentence.

8 And absolutely, Counts 16 and 30, if for some reason
9 those 10-year sentences had to be vacated, I would still
10 believe that the 25 years on the other counts, followed by the
11 five years on Count 32, would be reasonable and sufficient
12 without being greater than necessary.

13 Anything else?

14 **MS. HOFFMAN:** We are moving to dismiss the
15 superseding indictment against Mr. Davis. He was convicted on
16 the second superseding indictment.

17 **THE COURT:** Second superseding indictment. All right.
18 So the superseding would be dismissed.

19 And other than appeal rights, of course, anything,
20 Mr. Hazlehurst?

21 **MR. HAZLEHURST:** No, Your Honor. Thank you.

22 **THE COURT:** All right. Mr. Davis, as I mentioned, you
23 are aware, you have the right to appeal your convictions and
24 also this sentence.

25 I'm sure Mr. Hazlehurst will assist you in filing that

1 appeal. It needs to be within 14 days.

2 Do you understand that, sir?

3 **THE DEFENDANT:** Yes.

4 How do I file a actual appeal?

5 **THE COURT:** Mr. Hazlehurst will assist you in filing
6 that appeal.

7 You just need to file it in court, state that you're
8 filing an appeal, within 14 days, and your right to appeal will
9 be preserved.

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** Okay. All right.

12 Thank you, all.

13 (Court adjourned at 4:19 p.m.)

14 I, Douglas J. Zweizig, RDR, CRR, FCRR, do hereby certify
15 that the foregoing is a correct transcript from the
16 stenographic record of proceedings in the above-entitled
17 matter.

18 _____
19 /s/

20 Douglas J. Zweizig, RDR, CRR, FCRR
21 Registered Diplomat Reporter
22 Certified Realtime Reporter
23 Federal Official Court Reporter
24 DATE: May 18, 2020
25

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| MR. HAZLEHURST: [19] 2/14 2/19 3/4 4/20 4/24 5/4 8/18 12/5 13/21 17/6 19/21 20/23 36/21 48/5 48/16 50/19 51/21 55/6 63/21 MS. HOFFMAN: [25] 2/6 3/15 4/15 6/3 11/14 13/15 14/5 14/22 14/25 15/20 15/22 16/17 19/20 21/17 22/7 22/21 22/24 23/12 23/18 48/22 62/6 62/9 62/12 62/19 63/14 THE COURT: [51] 2/3 2/12 2/17 2/20 3/13 3/21 4/16 4/21 5/3 5/5 8/16 10/4 12/4 12/14 13/19 14/2 14/20 14/24 15/17 15/21 16/3 17/5 18/16 19/23 21/12 21/20 21/22 22/8 22/16 22/23 23/6 23/15 36/19 48/2 48/15 48/21 50/18 51/18 51/25 55/4 55/7 55/13 55/18 62/8 62/10 62/16 63/5 63/17 63/22 64/5 64/11 THE DEFENDANT: [3] 52/8 64/3 64/10 THE PROBATION OFFICER: [2] 22/6 22/15 | 2017 [3] 34/17 42/4 51/3 2019 [4] 1/8 58/11 58/20 59/9 2020 [1] 64/21 21201 [1] 1/25 22 [1] 45/14 23 [1] 42/4 23-year-old [1] 42/6 24th [2] 42/3 51/3 25 [6] 7/17 41/25 52/14 61/8 61/11 63/10 25-year [1] 61/15 25-year-old [1] 43/22 26th [2] 14/11 57/11 27 [1] 7/19 280 grams [1] 57/2 292 [2] 22/11 56/2 29th [1] 58/11 2:23 p.m [1] 2/2 2:30 [1] 29/25 2A [1] 15/11 2E1.1 [1] 20/11 | 18/24 7 74 [1] 20/1 76 [1] 20/7 77 [2] 20/8 21/15 78 [1] 20/4 7D [1] 1/9 |
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